

DIAA Board of Directors' Meeting Minutes  
Thursday, November 5, 2015 – 9:00 a.m.  
Cabinet Room, Townsend Building, Dover, DE

I. Opening

A. Call to Order

The meeting was called to order at 9:15 a.m. by Chairperson Terre Taylor.

B. Roll Call

The following DIAA Board members were present: Terre Taylor, Curtis Bedford, Susanne Williams, Craig Eliassen, Dr. Bradley Layfield, Robert Cilento, Mike Hart, Mike Breeding, Susan Coffing, Evelyn Edney, and Ron Eby. Kevin Charles, Executive Director, Kathleen Geiszler, Deputy Attorney General, DIAA staff Thomas Neubauer and Tina Bates were also in attendance. Dr. Kevin Fitzgerald, Dr. Mark Holodick, Leroy Mann, Gary Cimaglia, and Ted Laws were unable to attend.

C. Approval of Agenda

Dr. Layfield made a motion to approve the agenda. The motion was seconded by Ms. Edney and carried unanimously.

D. Approval of Minutes of DIAA October 8, 2015 Board Meeting

Mr. Eliassen made a motion to approve the minutes of the October 8, 2015 Board meeting. The motion was seconded by Mr. Hart and carried unanimously.

E. DIAA Financial Report

Mr. Charles reported that the revenue for FY16 was \$140,090. Revenue for the month of October was \$21,328 which mostly included member dues and sports fees. Mr. Charles then reported that the expenses for the FY16 were \$309,401. Expenses for the month of October were \$69,754 which included expenses for salary and OEC's, scholarships, publications, and NIAAA courses. Mr. Charles stated that the deficit is a little larger for this time of year due to paying for a multi-year supply of medal and trophy stock. Mr. Charles reported that the financial is now up-to-date with the new system. Mr. Cilento made a motion to approve the financial report. The motion was seconded by Dr. Layfield and carried unanimously.

II. Public Comment

None

III. A. Approval of Tournament Sanctions

Mr. Charles reported that he received 54 requests for sanctioning. Mr. Charles

reported that the 54 events included 29 indoor track, 2 baseball, 9 basketball, 10 wrestling, 1 softball, and 3 outdoor track and field. Mr. Charles stated that to the best of his knowledge they were in compliance with DIAA and NFHS regulations. Mr. Hart made a motion to approve the 54 sanction events. The motion was seconded by Mr. Cilento and carried unanimously.

F. Request to Waive 1009.2.10 by Polytech High School

Dr. Jason Peel, principal at Polytech High School; and Kevin Smith, athletic director for Polytech High School were in attendance to present this request.

Dr. Peel explained to the Board that one of their boys' soccer players had been playing with an invalid physical form. Dr. Peel reported that as soon as the district became aware of this invalid physical form the school and district administration were notified and the student was suspended from participation. Polytech also immediately self-reported the violation to DIAA.

Mr. Charles reviewed the regulations pertaining to physical examinations and the use of an ineligible player with the Board and stated that Polytech was appealing the requirement to forfeit the games that this student participated in.

Dr. Peel explained that the school believed that a valid physical form was on file. The school's investigation revealed that the student's parent had falsified the physical form. Dr. Peel asked that the school not be penalized for what the student and parent had done. Dr. Peel also explained that the student participated in 14 games.

Mr. Cilento made a motion to go into deliberation. The motion was seconded by Mr. Hart and carried unanimously.

Mr. Cilento made a motion to come out of deliberation. The motion was seconded by Mr. Hart and carried unanimously.

Dr. Layfield made a motion to waive Regulation 1009.2.10.2 Use of Ineligible Student due to the false information by the parent and that the school will not have to forfeit games or pay the fine. Dr. Layfield added that in addition, the student is not eligible for the remainder of the soccer season. The motion was seconded by Mr. Hart and carried by a vote of 7 – yes (Taylor, Bedford, Williams, Eliassen, Layfield, Cilento, and Hart) and 4 – no (Edney, Coffing, Breeding, and Eby).

G. Request for Membership by Odyssey Charter School

Mr. Charles reported that he received a request for membership by the Odyssey Charter School. Mr. Charles explained that the school is a

Kindergarten through 7<sup>th</sup> grade. Mr. Charles stated that the school was adding 8<sup>th</sup> grade and that their current enrollment is over 1,000. Mr. Charles stated that the school plans to sponsor boys' and girls' soccer, boys' and girls' basketball, girls' volleyball, cheerleading, and boys' track and field at the middle school level.

Mr. Eby made a motion to approve the request for membership. The motion was seconded by Mr. Bedford and carried unanimously.

I. Request to Waive 1006.2.4.6 and 2.4.7 by MOT Charter

Mr. Charles explained that he received a request from MOT Charter High School to participate in the 2015 cross country state meet. Mr. Charles explained that in order to compete in a state championship a school must comply with Regulation 1006.2.4 which requires a school to be a DIAA member for two years and have a minimum of two grades including a junior class. Mr. Charles reminded the Board that MOT Charter was a long time DIAA member as a middle school. As a result the DIAA Board granted MOT permission to participate in the 2014 Cross Country Championships.

Mr. Hart made a motion to waive Regulation 1006.2.4.6 and 1006.2.4.7 and allow MOT Charter to participate in all individual sports for this school year. The motion was seconded by Mr. Eliassen and passed unanimously.

B. Request to Waive 1009.2.4 by Archmere for DIAA 2015-11-6

Student and Student's mother were in attendance to present this request. Student's mother requested a closed hearing. Ms. Taylor recused herself and Mr. Bedford led the hearing. Dr. Layfield made a motion to go into executive session at the mother's request for the purposes of protecting the privacy of the pupil file as an exception to the Freedom of Information Act. The motion was seconded by Mr. Eby and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Mr. Bedford explained that DIAA is a 20 member Board and has 19 voting members. Mr. Bedford further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Mr. Bedford explained that there was less than a full Board present and there were only 10 voting members present and participating to consider the matter. The parties confirmed that they understood and wished to proceed with less than the full Board present. All persons participating in this hearing were sworn in. All the documentation was made part of the record and in addition to the testimony given the Board considered and relied upon the written documentation provided.

Mr. Cilento made a motion to go into deliberation. The motion was seconded by Ms. Coffing and carried unanimously. Mr. Breeding made a motion to come out of deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Mr. Hart made a motion to come out of executive session. The motion was seconded by Mr. Cilento and carried unanimously.

Dr. Layfield made a motion to deny Student's request based on the lack of evidence of a hardship. The motion was seconded by Ms. Edney and carried by a vote of 10 – yes (Bedford, Williams, Edney, Eliassen, Layfield, Cilento, Coffing, Hart, Breeding, and Eby) and 0 – no.

C. Request to Waive 1009.2.7 by Milford HS for DIAA 2015-11-7

Student and Student's father, Shawn Snyder, assistant principal at Milford High School; Ryan Winkleblech, athletic director at Milford High School; and Bob Spath, basketball coach were in attendance to present this request. Student is 18 years of age and requested a closed hearing. Mr. Cilento made a motion to go into executive session at the student's request for the purposes of protecting the privacy of the pupil file as an exception to the Freedom of Information Act. The motion was seconded by Mr. Eliassen and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Taylor explained that DIAA is a 20 member Board and has 19 voting members. Ms. Taylor further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Taylor explained that there was less than a full Board present and there were only 11 voting members present and participating to consider the matter. The parties confirmed that they understood and wished to proceed with less than the full Board present. All persons participating in this hearing were sworn in. All the documentation was made part of the record and in addition to the testimony given the Board considered and relied upon the written documentation provided.

Ms. Coffing made a motion to go into deliberation. The motion was seconded by Mr. Breeding and carried unanimously. Mr. Hart made a motion to come out of deliberation. The motion was seconded by Mr. Cilento and carried unanimously. Mr. Cilento made a motion to come out of executive session. The motion was seconded by Dr. Layfield and carried unanimously.

Dr. Layfield made a motion to approve Student's request based on the evidence of a hardship in the student's sophomore year and the information provided regarding the hardship were beyond the control of the student, family, and school. The motion was seconded by Mr. Hart and carried by a vote of 11 – yes (Taylor, Bedford, Williams, Edney, Eliassen, Layfield, Cilento, Coffing, Hart, Breeding, and Eby) and 0 – no.

D. Request to Waive 2009.2.4 by Salesianum for DIAA 2015-11-8

Student and Student's mother were in attendance to present this request. Student's mother requested a closed hearing. Mr. Hart recused himself from this hearing. Mr. Breeding made a motion to go into executive session at the mother's request for the purposes of protecting the privacy of the pupil file as an exception to the Freedom of Information Act. The motion was seconded by Ms. Williams and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Taylor explained that DIAA is a 20 member Board and has 19 voting members. Ms. Taylor further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Taylor explained that there was less than a full Board present and there were only 10 voting members present and participating to consider the matter. The parties confirmed that they understood and wished to proceed with less than the full Board present. All persons participating in this hearing were sworn in. All the documentation was made part of the record and in addition to the testimony given the Board considered and relied upon the written documentation provided.

Mr. Cilento made a motion to go into deliberation. The motion was seconded by Ms. Williams and carried unanimously. Mr. Eliassen made a motion to come out of deliberation. The motion was seconded by Mr. Cilento and carried unanimously. Dr. Layfield made a motion to come out of executive session. The motion was seconded by Mr. Eby and carried unanimously.

Dr. Layfield made a motion to approve Student's request based on the evidence of a hardship and the information provided regarding the hardship were beyond the control of the student, family, and school. The motion was seconded by Mr. Cilento and carried by a vote of 10 – yes (Taylor, Bedford, Williams, Edney, Eliassen, Layfield, Cilento, Coffing, Breeding, and Eby) and 0 – no.

E. Interim Waivers by the Executive Director

1. 1009.2.7 by Indian River HS for DIAA-2015-11-1

Ms. Taylor advised that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the privacy of the pupil file. Mr. Hart made a motion to go into executive session at the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Dr. Layfield and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Taylor explained that this request is being conducted under a modified hearing process and that the student's parents sent in a signed consent in order to proceed under these modified procedures and also requested a closed proceeding. Ms. Taylor advised that a full hearing is scheduled for the December 10, 2015 meeting should it be necessary. Ms. Taylor explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. Ms. Taylor further explained that Mr. Charles granted the interim waivers and modified the procedures in an attempt to accommodate the waiver requests for fall athletics while predicting that the other items on the agenda would take up considerable time. It was confirmed for the record that Mr. Charles remained under oath from past proceedings today. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Mr. Hart made a motion to go into deliberations. The motion was seconded by Mr. Cilento and carried unanimously. Mr. Cilento made a motion to come out of deliberations. The motion was seconded by Ms. Coffing and carried unanimously. Mr. Bedford made a motion to come out of executive session. The motion was seconded by Dr. Layfield and carried unanimously.

Mr. Hart made a motion to approve the two interim waivers granted by the Executive Director and grant the Student's waiver. The evidence presented by the Student met the burden of establishing a hardship and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Cilento and carried by a vote of 11 – yes (Taylor, Bedford, Williams, Edney, Eliassen, Layfield, Cilento, Coffing, Hart, Breeding, and Eby) and 0 – no. Ms. Taylor noted for the record that the waiver request is granted and the full hearing scheduled for December 10, 2015 is no longer necessary and is cancelled.

2. 1009.2.4 by Milford HS for DIAA-2015-11-2

Ms. Taylor advised that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the privacy of the pupil file. Dr. Layfield made a motion to go into executive session at the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Bedford and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Taylor explained that this request is being

conducted under a modified hearing process and that the student's parents sent in a signed consent in order to proceed under these modified procedures and also requested a closed proceeding. Ms. Taylor advised that a full hearing is scheduled for the December 10, 2015 meeting should it be necessary. Ms. Taylor explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. Ms. Taylor further explained that Mr. Charles granted the interim waivers and modified the procedures in an attempt to accommodate the waiver requests for fall athletics while predicting that the other items on the agenda would take up considerable time. It was confirmed for the record that Mr. Charles remained under oath from past proceedings today. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Dr. Layfield made a motion to go into deliberations. The motion was seconded by Mr. Cilento and carried unanimously. Mr. Hart made a motion to come out of deliberations. The motion was seconded by Mr. Cilento and carried unanimously. Mr. Bedford made a motion to come out of executive session. The motion was seconded by Dr. Layfield and carried unanimously.

Dr. Layfield made a motion to approve the two interim waivers granted by the Executive Director and grant the Student's waiver. The evidence presented by the Student met the burden of establishing a hardship and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Hart and carried by a vote of 11 – yes (Taylor, Bedford, Williams, Edney, Eliassen, Layfield, Cilento, Coffing, Hart, Breeding, and Eby) and 0 – no. Ms. Taylor noted for the record that the waiver request is granted and the full hearing scheduled for December 10, 2015 is no longer necessary and is cancelled.

3. 1009.2.4 by St. Elizabeth HS for DIAA-2015-11-3

Ms. Taylor advised that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the privacy of the pupil file. Mr. Bedford made a motion to go into executive session at the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Dr. Layfield and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Taylor explained that this request is being conducted under a modified hearing process and that the student's parents sent

in a signed consent in order to proceed under these modified procedures and also requested a closed proceeding. Ms. Taylor advised that a full hearing is scheduled for the December 10, 2015 meeting should it be necessary. Ms. Taylor explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. Ms. Taylor further explained that Mr. Charles granted the interim waivers and modified the procedures in an attempt to accommodate the waiver requests for fall athletics while predicting that the other items on the agenda would take up considerable time. It was confirmed for the record that Mr. Charles remained under oath from past proceedings today. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Mr. Eby made a motion to go into deliberations. The motion was seconded by Mr. Eliassen and carried unanimously. Mr. Bedford made a motion to come out of deliberations. The motion was seconded by Mr. Eby and carried unanimously. Mr. Hart made a motion to come out of executive session. The motion was seconded by Mr. Eby and carried unanimously.

Mr. Hart made a motion to approve the two interim waivers granted by the Executive Director and grant the Student's waiver. The evidence presented by the Student met the burden of establishing an academic hardship and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Cilento and carried by a vote of 6 – yes (Bedford, Williams, Edney, Eliassen, Cilento, and Hart) and 4 – no (Layfield, Coffing, Breeding, and Eby) and 1 abstention – (Taylor). Ms. Taylor noted for the record that the waiver request is granted and the full hearing scheduled for December 10, 2015 is no longer necessary and is cancelled.

4. 1009.2.4 by William Penn HS for DIAA-2015-11-4

Ms. Taylor advised that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the privacy of the pupil file. Dr. Layfield made a motion to go into executive session at the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Bedford and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Taylor explained that this request is being conducted under a modified hearing process and that the student's parents sent in a signed consent in order to proceed under these modified procedures and

also requested a closed proceeding. Ms. Taylor advised that a full hearing is scheduled for the December 10, 2015 meeting should it be necessary. Ms. Taylor explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. Ms. Taylor further explained that Mr. Charles granted the interim waivers and modified the procedures in an attempt to accommodate the waiver requests for fall athletics while predicting that the other items on the agenda would take up considerable time. It was confirmed for the record that Mr. Charles remained under oath from past proceedings today. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Dr. Layfield made a motion to go into deliberations. The motion was seconded by Mr. Bedford and carried unanimously. Mr. Breeding made a motion to come out of deliberations. The motion was seconded by Mr. Hart and carried unanimously. Dr. Layfield made a motion to come out of executive session. The motion was seconded by Ms. Williams and carried unanimously.

Mr. Eliassen made a motion to approve the two interim waivers granted by the Executive Director and grant the Student's waiver. The evidence presented by the Student met the burden of establishing an academic hardship and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Hart and carried by a vote of 7 – yes (Bedford, Williams, Edney, Eliassen, Layfield, Cilento, and Hart) and 4 – no (Taylor, Coffing, Breeding, and Eby). Ms. Taylor noted for the record that the waiver request is granted and the full hearing scheduled for December 10, 2015 is no longer necessary and is cancelled.

5. 1009.2.4 by Sussex Tech HS for DIAA-2015-11-5

Ms. Taylor advised that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the privacy of the pupil file. Dr. Layfield recused himself from this hearing. Mr. Breeding made a motion to go into executive session at the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Dr. Layfield and carried unanimously. Dr. Walter recused himself from this hearing.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Taylor explained that this request is being conducted under a modified hearing process and that the student's parents sent in a signed consent in order to proceed under these modified procedures and

also requested a closed proceeding. Ms. Taylor advised that a full hearing is scheduled for the December 10, 2015 meeting should it be necessary. Ms. Taylor explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. Ms. Taylor further explained that Mr. Charles granted the interim waivers and modified the procedures in an attempt to accommodate the waiver requests for fall athletics while predicting that the other items on the agenda would take up considerable time. It was confirmed for the record that Mr. Charles remained under oath from past proceedings today. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Mr. Cilento made a motion to go into deliberations. The motion was seconded by Mr. Bedford and carried unanimously. Mr. Bedford made a motion to come out of deliberations. The motion was seconded by Ms. Coffing and carried unanimously. Mr. Cilento made a motion to come out of executive session. The motion was seconded by Mr. Bedford and carried unanimously.

Ms. Coffing made a motion to approve the two interim waivers granted by the Executive Director and grant the Student's waiver. The evidence presented by the Student met the burden of establishing a hardship and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Hart and carried by a vote of 10 – yes (Taylor, Bedford, Williams, Edney, Eliassen, Cilento, Coffing, Hart, Breeding, Eby) and 0 – no. Ms. Taylor noted for the record that the waiver request is granted and the full hearing scheduled for December 10, 2015 is no longer necessary and is cancelled.

### III. H. Consideration of Edits to 1008 and 1009 for DE State Board of Education

Mr. Charles explained that public comments were received on the proposed regulation changes before the Delaware State Board of Education. Edits were made to the regulations in response to some of the public comments. Mr. Charles stated he would review those edits with the DIAA Board so that they could consider whether to approve the changes and determine if they were substantive.

Mr. Charles reviewed two edits to DIAA Regulation 1007. A motion was made by Mr. Hart to approve the edits. The motion was seconded by Mr. Cilento and carried unanimously. Mr. Hart made a motion that the changes were not substantive. The motion was seconded by Mr. Cilento and carried unanimously.

Mr. Charles reviewed four edits each to DIAA regulation 1008 and 1009. Mr. Charles explained that the edits to 1008 and 1009 were identical. During discussion of the edits to 1008 and 1009.2.1 Eligibility, Age the Board concluded that those changes were substantive and that based on comments and legal review the proposed change to 1008 and 1009.2.1 should be remanded to the DIAA Rules and Regulations Committee for further study. Mr. Eliassen made a motion to remove the proposed change to 1008 and 1009.2.1 Eligibility, Age and to approve the edits to 1008 and 1009. The motion was seconded by Dr. Layfield and carried unanimously.

V. Other

The meeting ended due to lack of a quorum.

IV. Executive Director Report

A. Legal

B. Saturday Night Lights

C. Realignment Committee Update

D. Meeting Calendar

E. Meeting with Head School Nurses

V. Other

VI. Public Comment

None.

VII. Adjournment

November 5, 2015 DIAA Board of Directors Meeting

Mr. Bedford made a motion to adjourn at 1:40 p.m. The motion was seconded by Dr. Layfield and carried unanimously.

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Tina Bates